

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA)	NO. 4:19-CR-774
)	
v.)	(Judge Counts)
)	
THOMAS ALAN ARTHUR)	
)	
Defendant.)	

PROPOSED JUROR QUESTIONNAIRE

In addition to the Court's standard questionnaire, the United States submits this proposed questionnaire and requests that it be provided to prospective jurors in advance of jury selection. Such questionnaire would give both parties an opportunity to evaluate the potential biases of jurors well in advance of jury selection to more efficiently identify potential strikes for cause as well as peremptory challenges.

PRINT NAME: _____

INSTRUCTIONS

Please answer each question fully.

Please print your first and last name on each page.

Please do NOT write on the back of any page.

Please sign this questionnaire.

PRINT NAME: _____

QUESTIONS

1. Do you have any feelings toward local, state or federal law enforcement agents or governments that would inhibit your ability to serve as a fair and impartial juror in this case?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

2. If selected, you will be asked to determine whether particular drawings and writings are obscene, as defined by the law.

To prove a matter is “obscene,” the government must satisfy three tests:

- (1) that the work appeals predominantly to prurient interest, which is an appeal to a morbid, degrading, or unhealthy interest in sex, as distinguished from an ordinary interest in sex;
- (2) that it depicts or describes sexual conduct in a patently offensive way; and
- (3) that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

These drawings and writings will be of a sexually explicit nature involving children. The writings are 4 to 18 pages in length (approximately 1300 to 7000 words each). As part of your jury service, would you be able to view these drawings and writings with sufficient attention to enable you to determine whether these drawings and writings meet the definition of obscenity?

Circle one: YES – NO – IT DEPENDS

If “no” or “it depends”, please explain:

PRINT NAME: _____

3. This case involves charges under federal obscenity laws which necessarily call into question the jury's conclusions about certain writings and drawings depicting explicit sexual acts. Therefore, if you are selected as a juror in this case, you will be required to view evidence, including drawings and writings, which depict or portray sexual activity of several natures, including urination and the use of feces during sexual activity. Some people may be at ease or even willing to view these drawings or writings, some may be indifferent toward viewing them, and still others may be uncomfortable or even dread the thought of having to view such writings or drawings. However, a distaste for such material may not disqualify a prospective juror from serving. A prospective juror, however, must promise to make his or her best effort to view these drawings and writings as evidence in an impartial and objective fashion as responsible adults. You will not be asked to personally approve or disapprove of these drawings and writings or of such drawings and writings in general. You will be asked to render a fair, impartial, and objective verdict based upon the evidence admitted at trial and the law as defined by the judge. Do you feel that for any reason viewing this type of evidence would prevent you from serving as a fair and impartial juror in this case and following the judge's instructions concerning the law?

Circle one: YES – NO – IT DEPENDS

If "yes" or "it depends", please explain:

4. It is anticipated that the evidence in this case may consist of graphic descriptions of and discussions about sexually explicit conduct involving a minor child, including images depicting such conduct. Do you feel that for any reason viewing this type of evidence would prevent you from serving as a fair and impartial juror in this case and following the judge's instructions concerning the law?

Circle one: YES – NO – IT DEPENDS

PRINT NAME: _____

If “yes” or “it depends”, please explain:

5. During the deliberations of the jury, will you be able to discuss the contents of the images and writings with other members of the jury?

Circle one: YES – NO – IT DEPENDS

If “no” or “it depends”, please explain:

6. Do you feel that the obscenity laws of this country are in any manner unconstitutional or unfair, such that they should not be enforced by the government?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

7. This case involves charges brought by the United States government which allege violations of this country’s obscenity laws. These laws, which have been upheld by the United States Supreme Court, make it illegal to sell or distribute obscenity in interstate commerce. Do you hold the view that anything, no matter how objectionable, should be permitted as free speech, regardless of what this country’s obscenity laws may say?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

PRINT NAME: _____

8. The United States Supreme Court has held that the First Amendment does not protect the sale or distribution of obscene material. Would you be able to follow the Court's instructions regarding the applicable law in this case, regardless of your own personal views?

Circle one: YES – NO – IT DEPENDS

If "no" or "it depends", please explain:

9. Do you understand that you will not be asked to debate, nor will it be proper for you to debate, whether or not obscene material should be unlawful or the appropriateness of current obscenity laws?

10. Do you belong to, or are you associated with, any group, society, or organization that supports changes in the laws of the United States or any state concerning obscenity? If yes, please explain.

11. Do you have a close friend or family member who is or has been associated with such a group, society, or organization? If yes, please explain.

12. Have you or any member of your immediate family or a close friend taken any course work in any of the fields of counseling, psychiatry, psychology, human sexuality, social work, sociology, criminology, or criminal justice, or been employed in those fields? If yes, please describe such.

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13. Have you ever had any education, training, or worked as an artist or as a graphic designer? If yes, please explain.

14. Have you ever had any education, training, or worked as a writer or editor? If yes, please explain.

15. Do you personally know anyone who works in, or is otherwise involved in, printing or online publishing? If so, please explain.

16. Do you believe that printing and online publishing should be allowed to operate wholly and completely free of government regulation?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

17. Do you believe that the internet should be completely or largely unregulated, such that anything that is said or done on the internet should allowed to be said or done?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

18. Have you heard anything, either recently or in the past, about this case or the defendant prior to coming to court today?

- a. If yes, when is the last time that you heard or read anything about this case?

PRINT NAME: _____

-
- b. From what you have read or heard about this case, have you formed an opinion as to the guilt or innocence of the defendant?
-

- c. Do you believe that you can put aside what you have seen or heard, or any opinion you may have formed, and decide the case based on the evidence you hear in Court and in accordance with the Court's instructions?

Circle one: YES – NO – IT DEPENDS

If "yes" or "it depends", please explain:

19. Have you discussed this case or the defendant with anyone or has anyone discussed the case or the defendant in your presence? If so, describe the circumstances.
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20. The following question will require a yes or no answer. If there is a yes answer, you may be questioned individually, outside the presence of the other jurors. Have you, a member of your family or a close friend been a victim of any form of sexual abuse, whether as a child or an adult?
-

- a. Was the case reported to the authorities?
-

- b. Did the case go to trial?
-

- c. Was there anything about the experience that makes you unable to sit fairly and impartially as a juror in this case?
-

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21. The following question will require a yes or no answer. If there is a yes answer, you may be questioned individually, outside the presence of the other jurors. Have you or any of your relatives or close friends ever had any experience with a person who has engaged in or was accused of sexual activity with or involving a child?

- a. Was the case reported to the authorities?

- b. Did the case go to trial?

- c. Was there anything about the experience that makes you unable to sit fairly and impartially as a juror in this case?

22. Have you personally, or any family member, or any close friend or relative ever been accused fairly or unfairly of child sexual abuse?

23. Have you made, or known anyone who made, a report of sexual assault or child sexual abuse?

24. Have you made, or known anyone who made, a false accusation of sexual assault, or child sexual abuse?

25. Do you belong to any group which encourages, advocates or condones sexual relations between adults and children who are less than 18 years of age?

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26. Do you subscribe to any publication that encourages, endorses or recommends sexual relations between adults and children who are less than 18 years of age?
- _____

27. Do you believe that a minor is capable of consenting to sexual activity with an adult?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

28. Do you condone sexual activity between adults and minors, or between two minors?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

If so, at what age(s) do you think such activity is acceptable between an adult and a minor?

29. Do you disagree with the idea that the government has the responsibility to declare some materials as contraband, and further declare that those materials cannot be imported into the United States from a foreign country or carried from one state to another state, or sent by computer from one state to another state?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

FORFEITURE

30. In certain circumstances, the law allows the United States to forfeit, or take, from a convicted person, the property that person used to commit the crime. In this case, if the defendant is convicted, the United States

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will be seeking forfeiture of the defendant's land and home. Do you disagree with the law that allows the government to forfeit property, such as a land or home, used to commit the crime?

Circle one: YES – NO – IT DEPENDS

If "yes" or "it depends", please explain:

31. In certain circumstances, the law allows the United States to forfeit, or take, from a convicted person the proceeds the person obtained from his (or her) crime or property the person bought with that money. For instance, if a person makes money selling drugs, the law allows the United States to take the money. Or if a person uses the money from selling drugs to buy a truck, the law allows the United States to take the truck. Do you disagree with that law?

Circle one: YES – NO – IT DEPENDS

If "yes" or "it depends", please explain:

32. If the United States meets its burden and proves to you that the defendant committed the charged offense, and if the United States can show that the defendant used his land and home to commit the offense, would you be able to enforce the forfeiture laws knowing the property in this case is land and a home?

Circle one: YES – NO – IT DEPENDS

If "no" or "it depends", please explain:

33. Is there anything that you have read in newspapers, social media posts, or viewed on television or heard from any other source regarding asset forfeiture that would influence your ability to sit as a fair and impartial juror in this case?

Circle one: YES – NO – IT DEPENDS

If "yes" or "it depends", please explain:

PRINT NAME: _____

34. Have you or a close friend or relative ever been involved in any action involving government officials taking property or seizing property? If so, please describe the nature of the action, and about when it occurred, and how the matter was resolved.

- a. Do you feel that you, your close friend, or your family member was treated fairly?

- b. Would this experience make it difficult for you to be a fair and impartial juror if you were selected to serve in this case?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

35. Do you have any beliefs or principles which would make you reluctant to decide whether property was used to commit the crime or was purchased with proceeds of criminal activity?

Circle one: YES – NO – IT DEPENDS

If “yes” or “it depends”, please explain:

Print Name

Sign Name

Date